

ATTORNEY DOCKET NO
003498.P054

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JAN 10 2005
EXAMINER

PATENT
U.S. 09/671,960

Remarks/ Arguments

In response to the Office Action mailed October 18, 2004, Applicant respectfully requests that the Examiner reconsider the rejections the claims.

Claims 1 – 9 remain.

Claims 1 – 9 stand rejected under 35 U.S.C. § 102(e) as being anticipated by *Ahmadvand et al.* (U.S. Patent 6,542,490) (hereinafter "the *Ahmadvand* reference "). Applicant respectfully traverses these rejections.

Anticipation rejections under 35 U.S.C. § 102(e) require identity of invention. In other words, the Examiner has the burden of identifying, *prima facie*, each and every feature of each and every claim rejected as anticipated in a single prior art reference. The Examiner has failed to meet this burden with regards to the anticipation rejections of Claims 1 – 9.

In contrast to the Examiner's statement in Paragraph 2 of the outstanding Office Action, the *Ahmadvand* reference does not teach, at Col. 2, Lines 1 – 27, a system, that includes a hardware layer for performing time – critical tasks and a software layer for performing non – time critical tasks. Instead, this excerpt only discusses a medium access control (MAC) layer partitioned including a Physical Layer Independent Convergence Function (PLICF) and a Physical Layer Dependent Convergence Function (PLDCF). Generally, the PLICF controls the delivery of data to the Radio Link Protocol (RLP) within the PLDCF for generation of RLP frames. There is no indication that the PLICF and PLDCF functions, either individually or collectively, are partitioned into hardware and software layers, and particularly into a hardware layer for performing time – critical tasks and a software layer for performing non time – critical tasks. In fact, this excerpt from the *Ahmadvand* reference would seem to suggest that the PLICF and

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PLDCF functions would only be part of a software layer since they are discussed as being part of a MAC layer and not a Physical or Hardware Layer.

Furthermore, the *Ahmadvand* reference specifically does not disclose such a software layer for performing non – time critical tasks that includes one or more modules including a host communications agent, a bridging layer, a network management support module, a SBM – to –TAME conversion module, and a rate conversion module.

Given the substantial differences between Claims 1 – 9 and the teachings of the *Ahmadvand* reference, Applicant respectfully submits that the Examiner has not met his burden of proving a *prima facie* case of anticipation and therefore that the rejections of Claims 1 – 9 should be withdrawn.

Applicant respectfully submits that the Claims as they now stand are patentably distinct over the art cited during the prosecution thereof.

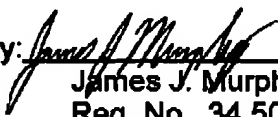
With the addition of no new claims, no additional filing fees are due. However, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account Number 20-0821 of Thompson & Knight LLP.

If the Examiner has any questions or comments concerning this paper or the present application in general, the Examiner is invited to call the undersigned at (214) 969 – 1749.

Respectfully submitted,

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